IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 215 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

D. J. WORKS

Versus

COMMISSIONER OF INCOME-TAX

Appearance:
MR NR DIVETIA for Petitioner
MR BB NAIK for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 25/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the assessee, the following question is referred to us in respect of assessment year 1980-81 :-

"Whether on the facts and in the circumstances of the case, the Tribunal is right in law in disallowing Rs.6,630/- out of foreign tour expenses ?"

2. We have heard Mr SN Divatia, learned counsel for the assessee and Mr BB Naik, learned counsel for the revenue.

3. Out of the total expenditure of Rs.16,630/-, the Tribunal disallowed only Rs.6,630/- on the ground that while a partner of the assessee firm had visited the textile machinery fair in West Germany and the same was connected with the business of the assessee firm for the purpose of keeping acquaintance with the latest technology and methods in production of textile spare-parts, the partner did not confine his tour to see the fair, but went to other cities and countries like Rome, Paris, London, Amsterdam, etc. which fact justified the assertion of the department that the entire expenditure was not incurred for the business of the assessee.

4. The finding given by the Tribunal is also justified in view of absence of any tour report. The decision of the Tribunal is thus based entirely on the facts of the case. We are unable to see any infirmity with the said finding. We accordingly hold that the Tribunal was right in law in disallowing Rs.6,630/- out of foreign tour expenses and we answer the question in the affirmative i.e. in favour of the revenue and against the assessee. The reference stands disposed of accordingly with no order as to costs.

(J.M. Panchal, J.) (M.S. Shah, J.)

sundar/-